

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

KURT BENSHOOF and BRIANA
GAGE,

Plaintiffs,

v.

MOSHE ADMON, DANIEL
AUDERER, JUSTIN BOOKER, FREYA
BRIER, CITY OF SEATTLE, NATHAN
CLIBER, ZACHARY COOK,
BENJAMIN COOMER, ANITA
CRAWFORD-WILLIS, JENNY
DURKAN, AMY FRANKLIN-BIHARY,
WILLIE GREGORY, OWEN
HERMSEN, DAVID KEENAN,
GABRIEL LADD, MAGALIE
LERMAN, MARY LYNCH, KATRINA
OUTLAND, JESSICA OWEN, BLAIR
RUSS, SPROUTS FARMERS
MARKET, KING COUNTY, SEATTLE
PUBLIC SCHOOLS, BIG 5 SPORTING
GOODS, CENTRAL COOP, PUGET
CONSUMERS CO-OP, FAYE CHESS,
ANN DAVIDSON, ADAM
EISENBERG, MATTHEW LENTZ,
JEROME ROACHE, SOHEILA
SARRAFAN, DAVID SULLIVAN, and
JORDAN WALLACE,

Defendants.

CASE NO. 2:23-cv-1392

ORDER

1 This matter comes before the Court on referral from the United States Court
2 of Appeals for the Ninth Circuit (the “Referral”). Dkt. No. 251. Having reviewed the
3 relevant record, the Court REVOKES Kurt Benshoof’s in forma pauperis status for
4 his appeal, No. 24-4223.

5 On June 28, 2024, the Court dismissed Plaintiffs Kurt Benshoof and Briana
6 Gage’s first amended complaint with prejudice. Dkt. No. 245. In an extensive 46-
7 page order, the Court thoroughly explained why each of Plaintiffs’ 40 causes of
8 action were meritless given that they fail to state constitutional violations, accused
9 immune parties of wrongdoing, and alleged an extremely implausible RICO
10 conspiracy. Based on these and other deficiencies, the Court found it would be futile
11 to grant leave to amend *a second time* and dismissed all claims with prejudice.

12 On July 2, 2024, Benshoof and Gage filed a notice of appeal. Dkt. No. 247.
13 The Ninth Circuit referred this matter to this Court “for the limited purpose of
14 determining whether in forma pauperis status should continue for this appeal or
15 whether the appeal is frivolous or taken in bad faith.” Dkt. No. 251 at 1. The Court
16 addresses this question below.

17 Benshoof’s IFP status should be revoked in this matter. The Court never
18 granted IFP status to Gage. *See* Dkt. A good faith appeal must seek review of at
19 least one “non-frivolous” issue or claim. *See Hooker v. Am. Airlines*, 302 F.3d 1091,
20 1092 (9th Cir. 2002). A frivolous claim is one that “lacks an arguable basis either in
21 law or in fact.” *Neitzke v. Williams*, 490 U.S. 319, 325 (1989). Benshoof’s causes of
22 action lack an arguable basis in law and fact. Moreover, Benshoof’s conduct shows a
23 continuous pattern of bringing non-meritorious litigation in this district. Examining

1 his filings as a whole supports the conclusion that Benshoof is not acting in good
2 faith. *See Matter of Metz*, 820 F.2d 1495, 1497 (9th Cir. 1987) (bankruptcy;
3 successive filings, when viewed together, can be evidence of bad faith); *Jenson v.*
4 *Carr*, No. C11-1222RSL, 2012 WL 13028543, at *2 (W.D. Wash. June 18, 2012)
5 (finding that “a tremendous number of claims premised on the same alleged injury”
6 was evidence of the harassing nature of a litigant’s actions).

7 Because Benshoof’s First Amended Complaint does not include a single non-
8 frivolous claim as articulated by the Court in its extensive order dismissing with
9 prejudice, Dkt. No. 245, the Court concludes his appeal is not in good faith and that
10 his IFP status to appeal must be revoked.

11 Accordingly, it is hereby ORDERED:

- 12 • The Court CERTIFIES that Benshoof’s appeal is frivolous and not
13 taken in good faith. Benshoof’s in forma pauperis status is revoked.
- 14 • The Clerk of the Court SHALL provide a copy of this order to the
15 Ninth Circuit.

16 Dated this 18th day of July, 2024.

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19 Jamal N. Whitehead
20 United States District Judge
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